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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/747,859

12/26/2003

Dean Pettit

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EXAMINER

REDMAN, JERRY E

ART UNIT

PAPER NUMBER

3634

MAIL DATE

DELIVERY MODE

07/26/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/747,859	Applicant(s) PETTIT ET AL.	
	Examiner Jerry Redman	Art Unit 3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) 1-10 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner:
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>see office action</u> . | 6) <input type="checkbox"/> Other: _____ |

Applicant's election of Group XVI (Figs. 66-73) in the reply filed on 9/7/2006 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claims 11-18 are readable on the elected invention. Group XVI is directed towards a lock assembly or more specifically, a lock assembly having indicia. Therefore, claims 1-10 are withdrawn from consideration. The election is considered FINAL.

Status of the claims is as follows:

Claims 1-10 are withdrawn from consideration; and
Claims 11-18 are herein addressed below.

The applicant's information disclosure statements dated 3/29/2004, 6/21/2004, and 11/8/2004 (identical to the IDS dated 6/21/2004) have been considered and a copy has been placed in the file.

The continuation data in the specification should be updated.

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct

Art Unit: 3634

from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 11-18 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-70 of U.S. Patent No. 6,957,513 in view of Bujese et al. (4,229,096). U.S. Patent No. 6,957,513 discloses an integrated tilt-latch/sash lock assembly comprising an upper sash having a keeper, a lower sash, a master frame mounted both sashes, a rotor assembly comprising a sash lock housing/escutcheon having an engaging tab, a cam/rotor having first and second flanges and having a shaft, an actuator, a handle, and a spool having an internal opening and a slot. U.S. Patent No. 6,957,513 fails to show indicia. Bujese et al. (4,229,096) disclose an escutcheon attached to a handle and having indicia. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the handle of Sheldon et al. ('907) with indicia as taught by Bujese et al. ('096) since indicia allows one to visually see the position of the handle.

Art Unit: 3634

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.


Claims 11-18 are further rejected under 35 U.S.C. 102(b) as being anticipated by Sheldon et al. (5,992,907). Sheldon et al. ('907) disclose an integrated tilt-latch/sash lock assembly (10) comprising an upper sash (16) having a keeper (38), a lower sash (14), a master frame (18) mounted both sashes, a rotor assembly comprising a sash lock housing/escutcheon (30) having an engaging tab (any portion that extends from the rotational center) and an upper surface, a cam/rotor (36) having first and second flanges (figure 2, having ridges) and having a shaft (54), an actuator (50), a handle (54), a spool (58) having an internal opening and a slot (60), a fastener received therein (the fastener is the friction associated with the slot of the spool/pawl (58) which grips the connectors), and a first and second semi-rigid connectors (62, one on each side) connecting the spool/pawl (58) to first and second spring biased latch bolts (20 and 22) coupled to a slide (68) which slides back and forth. Sheldon et al. ('907) fails to show indicia. Bujese et al. (4,229,096) disclose an escutcheon attached to a handle and having indicia. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the handle of Sheldon et al. ('907) with indicia as taught by Bujese et al. ('096) since indicia allows one to visually see the position of the handle.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. patents to Polowinczak ('214), Polowinczak et al. ('792), and Harding et al. ('400) disclose indicia similar to that of the applicant's invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jerry Redman whose telephone number is 571-272-6835. The examiner can normally be reached on M-F from 8 to 6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Glessner, can be reached on 571-272-8300. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Jerry Redman
Primary Examiner

Jerry Redman
Primary Examiner
Art Unit 3634